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PROJECT NO. 51840

RULEMAKING TO ESTABLISH	§	PUBLIC UTILITY COMMISSION
ELECTRIC WEATHERIZATION	§	
STANDARDS	§	OF TEXAS

**OFFICE OF PUBLIC UTILITY COUNSEL’S INITIAL COMMENTS
ON COMMISSION’S PROPOSAL FOR PUBLICATION**

The Office of Public Utility Counsel (“OPUC”) respectfully submits these comments on the Proposal for Publication¹ approved by the Public Utility Commission of Texas (“Commission” or “PUC”) on August 26, 2021. The Commission proposes new 16 Texas Administrative Code (TAC) §25.55, relating to weather emergency preparedness, to implement weather emergency preparedness measures for generation entities and transmission service providers in the Electric Reliability Council of Texas (ERCOT) power region.² Specifically, the proposed phase one rules require, “...generators to implement the winter weather readiness actions identified in the 2012 Quanta Technology Report on Extreme Weather Preparedness Best Practices and to fix any known, acute issues that arose during the 2020 – 2021 winter weather season.”³ The phase one proposal also “requires transmission service providers to implement key recommendations contained in the 2011 Report on Outages and Curtailments During the Southwest Cold Weather Event on February 1-5, 2011, jointly prepared by the Federal Energy Regulatory Commission and the North American Electric Reliability Corporation.”⁴ Additionally, the phase one proposal “requires a notarized attestation from the highest-ranking representative, official, or official with binding authority over each of the above entities attesting to the completion of all required activities.”⁵

¹ Proposal for Publication for New 16 TAC § 25.55 as Approved at the August 26, 2021, Work Session (Aug. 26, 2021).

² *Id.*

³ *Id.* at 1.

⁴ *Id.* at 1-2.

⁵ *Id.* at 2.

OPUC generally supports the proposed rule and provides specific comments on the following items:

- OPUC supports the Commission’s two-phase approach;
- OPUC recommends the Commission establish a review process for the good cause exception and impose penalties and consequences for non-compliance with this rule;⁶ and
- OPUC supports the Commission’s efforts to put standards in place for the upcoming winter.

I. THE COMMISSION’S TWO-PHASE APPROACH

The Commission’s Proposal for Publication set forth that weather emergency preparedness reliability standards will be completed in two phases. The first phase of the weather emergency preparedness reliability standards is represented in this current rulemaking. Specifically, phase one will ensure that the electric industry is prepared to provide continuous, reliable electric service throughout this upcoming winter season and to comply with the statutory deadline for the adoption of weather emergency preparedness reliability standards as set forth in SB 3.⁷

Phase two will consist of a more comprehensive, year-round set of weather emergency preparedness reliability standards that will be informed by a weather study that is currently being conducted.⁸ OPUC supports the Commission’s two-phase approach because it will simultaneously allow standards to be in place for the upcoming winter and will give time for more robust standards to be developed for the coming months.

⁶ Proposed §§ 25.55(c)(6) and (f)(4).

⁷ *Id. at 1.*

⁸ *Id. at 2.*

II. COMMENTS ON GOOD CAUSE EXCEPTIONS – PROPOSED NEW 16 TAC §§ 25.55(c)(6) and (f)(4)

OPUC takes exception and recommends revisions and additions to the currently drafted good cause exceptions available to generation entities and transmission service providers.⁹ Specifically OPUC takes exception with the lack of a review process for claimed good cause exceptions and the lack of detailed consequences and penalties for an entity or provider's failure to adhere to the requirements proposed under 16 TAC §§ 25.55(c)(1) and (f)(1). Specifically, 16 TAC § 25.55(c)(1) states that, "By December 1, 2021, a generation entity must complete the following winter weather emergency preparations for each resource under its control..." and 16 TAC § 25.55(c)(1)(A)-(E) set forth the preparations which are required. 16 TAC § 25.55(f)(1) states, that "By December 1, 2021, a transmission service provider must complete the following winter weather preparations for its systems and facilities..." and 16 TAC § 25.55(f)(1)(A)-(H) set forth the preparations which are required. However, a generation entity or transmission service provider may submit a request for a good cause exception with the Commission to the specific requirements listed in 16 TAC §§ 25.55(c)(1) and (f)(1).

OPUC recommends that specific rule language be added to ensure that if an entity or service provider does not adhere to the requirements set forth in 16 TAC §§ 25.55(c)(1) and (f)(1) that specified consequences and penalties be imposed by the Commission, unless a good cause exception is granted under 16 TAC §§ 22.55(c)(6) or 22.55(f)(4). The Commission has the ability to impose a penalty in response to an entity or provider's failure to adhere to the requirements in 16 TAC § 25.55.¹⁰

Additionally, OPUC recommends that language be added to proposed §§ 22.55(c)(6) and (f)(4), establishing the Commission's process for reviewing a good cause exception application. This will give clarity to the Commission's process prior to granting a good cause exception under proposed 16 TAC § 22.55(c)(6) and § 22.55(f)(4). OPUC recommends the review process contain a reasonable timeline to allow stakeholders to comment on the request for good cause exception. If a generation entity or a transmission provider's request for good cause exception is denied, the

⁹ Proposed §§ 25.55(c)(6) and (f)(4).

¹⁰ Tex. Util. Code § 15.023(a).

entity should be given a reasonable opportunity to comply with the weatherization provisions in the proposed rule.¹¹ OPUC also recommends that the proposed rules outline the penalties that would be imposed if a generation entity or a transmission provider fails to comply with the Commission order denying the request for a good cause exception. Additionally, if a good cause exception is granted and the Commission imposes a compliance obligation on a generation entity or a transmission service provider to comply with certain provisions of the rule, if the entity fails to comply with the Commission order, the penalties should equally apply. The review process and penalties would ensure that the regulated entities comply with the weatherization requirements in the proposed rules.

III. GENERAL COMMENTS ON NEW 16 TAC § 25.55

The Proposed Rule requires generation entities and transmission service providers to complete all necessary preparations to ensure the sustained operation of all cold weather critical components during winter weather conditions.¹² The rule also requires the generation and transmission entities to take all actions necessary to prevent a reoccurrence of any cold weather critical component failure that occurred during the winter of 2020-2021.¹³ OPUC believes that consumers need reliable electric service especially during times of extreme weather. OPUC applauds the Commission for putting robust standards in place to help ensure that consumers have reliable electric service at all times. OPUC looks forward to the implementation of this rulemaking and towards participating in phase two in a future project.

IV. CONCLUSION

OPUC appreciates the opportunity to provide these comments on the Commission's proposed rules and looks forward to working with Commission Staff and other stakeholders in this project.

¹¹ Proposed §§ 25.55(c) and (f).

¹² *Id.* at 8 and 13.

¹³ *Id.* at 9 and 13.

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